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Attorneys for Plaintiff JOSEPH C. MONTANA JR.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

JOSEPH C. MONTANA, JR.

Plaintiff,

V.

KIM MOSES, HERITAGE AUCTION, INC., and DOES 1 through 25 inclusive,

Defendants.

Case No. C0802324 BZ

STIPULATION RE DISMISSAL, JURISDICTION AND VENUE

Defendants.

Plaintiff JOSEPH C. MONTANA JR. ("Montana") and Defendants KIM MOSES ("Moses") and HERITAGE AUCTION, INC. ("Heritage"), hereby stipulate to the following:

WHEREAS on May 5, 2008, Plaintiff MONTANA filed Case No. C0802324 BZ in U.S. District Court for the Northern District of California seeking damages and injunctive relief against Defendants MOSES and HERITAGE alleging causes of action for (1st) invasion of privacy-publicity given to private life, (2nd) invasion of privacy-interference with privacy, (3rd) common law copyright violation—Cal. Civ. C. §§ 980-985, and (4th) conversion;

WHEREAS on June 30, 2008, MOSES as Plaintiff filed Case No. C08-01705 against MONTANA in the Superior Court of the State of California, County of Contra Costa, seeking declaratory relief;

WHEREAS on June 30, 2008, Defendants MOSES and HERITAGE filed a motion to

dismiss in the federal court action, Case No. C0802324 BZ, pursuant to Federal Rules of Civil Procedure, Rules 12(b)(1) for lack of subject matter jurisdiction, or in the alternative Rule 12(b)(6) for federal preemption as to the third cause of action and uncertainty as to the fourth cause of action:

NOW, THEREFORE, it is hereby stipulated by the parties, by and through their counsel of record:

- MONTANA shall file with the U.S. District Court for the Northern District of 1. California a dismissal without prejudice of his claims brought in Case No. C0802324 BZ;
- MOSES and HERITAGE shall be subject to the jurisdiction of the Superior Court 2. of the State of California in any cross-complaint filed by MONTANA in Case No. C08-01705;
- Venue for any cross-complaint brought by MONTANA against MOSES and 3. HERITAGE shall be in the Superior Court of the State of California, County of Contra Costa;
- Notwithstanding the above, this stipulation is not a waiver of any other rights, remedies, claims or defenses of MONTANA, MOSES, or HERITAGE, each of which is hereby expressly reserved.

IT IS SO STIPULATED.

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DATED:

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DATED: July 22, 2008

BY

ROBERT L. MEZZETTI II

MEZZETTI LAW FIRM

Attorneys for JOSEPH C. MONTANA JR.

July 22, 2008

DREIER STEIN KAHAN BROWNE WOODS

GEORGE LLP

BY

Stanton L. Stein

Attorneys for KIM MOSES and HERITAGE

AUCTION, INC.